



# STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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## CONFORMED MINUTES

### THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, October 8, 2009

9:00 A. M.

Bakersfield City Hall—South  
City Council Chambers  
1501 Truxtun Avenue  
Bakersfield, CA 93301

**Draft**

## AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requests that all lengthy comments be submitted in writing in advance of the meeting date. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office no later than 15 days prior to the scheduled meeting date, and must indicate the Agenda Item to which it relates. For written material in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 12 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

Individuals are responsible for presenting their own projects at the meeting.

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[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

**I. Call to Order (Chairman Garner)**

**II. Roll Call and Declaration of a Quorum**

The meeting was called to order at 9:05 A. M. by Chairman Garner, with all members present with exception to Member Charles Wyatt who arrived at 9:30 A. M., and a quorum was declared.

**III. Director's Report (Luther, Department of Conservation) [Information]**

On behalf of Director Bridgett Luther, Assistant Director of the Office of Government and Environmental Affairs, Marni Weber, informed the SMGB that:

- Ms. Elena Miller was named State Oil and Gas Supervisor effective September 1. Ms. Miller is currently Public Advisor at the California Energy Commission (CEC), and has served as staff counsel, and has worked on employment litigation matters as staff counsel at the California Department of Corrections and Rehabilitation, and as a paralegal working for Atlantic Richfield Company.
- The legislative session ended on September 11.
- The OMR's Abandoned Mines Land Unit (AMLU) has received national recognition from the U.S. Department of the Interior and National Mine Association. Director Luther and Cy Oggins will be traveling to Washington, D.C. to accept the award.
- The Department of Recycling and the Integrated Waste Management Board are being reorganized and combined under National Resources Agency.

- **Office of Mine Reclamation Report (O'Bryant) [Information]**

Ken Trott, Manager of the Office of Mine Reclamation (OMR) Reporting and Compliance Unit, reported on the following activities:

- OMR's Lead Agency Review Team (LART) continues in its efforts to review certain SMARA lead agencies, notably, Butte, Sacramento and Ventura Counties, and one city. The LART efforts are progressing favorably, and one or two lead agency review reports will be provided to the SMGB in the near future.
- The AMLU recently received a four-year grant from the Bureau of Land Management (BLM). The first year grant is for about one million dollars with opportunity for additional work.
- AMLU continues to work with the National Park Service and BLM for federal stimulus monies.
- Workshops continue with a workshop planned for Sacramento County next month, and five scheduled workshops for 2010.
- OMR now has a booth and will have it set up at the upcoming annual meeting of the California Construction and Industrial Materials Association (CalCIMA). Chairman Garner encouraged OMR to have a booth set up for upcoming annual meetings of the League of Cities.

- **State Geologist's Report (Parrish) [Information]**

No report provided.

**IV. Chairman's Report (Garner) [Information]**

No report provided.



**V. Executive Officer's Report (Testa) [Information]**

Executive Officer Stephen Testa summarized the following recent and upcoming activities of the SMGB:

- A vested rights determination hearing for the Big Cut Mine will commence at the SMGB's November regular business meeting. The meeting will take place in Placerville, El Dorado County. Additional legal counsel has been retained on behalf of the claimant, thus, a continuance may be requested by the applicant. In addition, a scheduling conflict in the SMGB's regulations exists and will also need to be discussed.
- The SMGB previously reviewed the overall performance of Siskiyou and Butte Counties as SMARA lead agencies. Inspection reports provided by both counties are under review. Site visits to certain surface mining operations in Butte County may be conducted, if deemed appropriate. Inspection report review is anticipated to be completed by end of year.
- Three designation considerations are in progress: rulemaking for termination of designation of certain sectors in the Claremont-Upland Production-Consumption (P-C) Region, addressing comments submitted for the Palm Springs P-C Region, and scheduling of a public hearing to be held by the Mineral and Geologic Resources Committee to receive comments on designated sectors within the San Bernardino P-C Region.
- The SMGB's annual report is due to the legislature by end of year. A draft report is anticipated to be completed by mid-November, and will cover from 2001 to present.
- Member Lund complimented staff for staying under budget for fiscal year 2008-2009.
- Chairman Garner acknowledged outreach efforts of the Executive Officer, and involving DOC and SMGB staff in such efforts, and in raising the SMGB's visibility.

**V. Ex-Parte Communication Disclosure [Information]**

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

No Ex-Parte Communications reported.

**VII. Good of the Meeting [Information]**

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- Mr. John Hecht with Sespe Consulting commented on the need for the SMGB to consider reviewing the policies and procedures implemented by the Office of Mine Reclamation (OMR) when removing a surface mining operation off the AB 3098 list.

**VIII. Consent Items [Action]**

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, July 9, 2009, Regular Business Meeting.
2. Approval of Minutes, September 11, 2009, Regular Business Meeting.



3. Approval of Revised Financial Assurance Cost Estimate for the Sommerset Sand Mine (CA Mine ID #91-09-0009), County of El Dorado Department of Transportation (Operator), Tom Celio (Agent), El Dorado County.

Board Member Lund moved to approve the adjusted financial assurance cost estimate for the Somerset Sand Mine, and defer approval of the minutes for July 9 and September 11, 2009. Board Member Licari seconded and the motion carried with a unanimous voice vote.

**IX. Continued Business [Action]**

[These business items have been continued from a previous meeting/hearing.]

**X. New Business [Action]**

1. Acceptance of California Geological Survey Special Report 210 on Update of Mineral Land Classification, Aggregate Materials in the Bakersfield Production-Consumption Region, Kern County, California.

Executive Officer Testa stated that the SMGB based on recommendations from the State Geologist and public input, prioritizes areas to be classified and/or designated. Consistent with the SMGB's guidelines, the State Geologist may periodically review mineral land classification information in defined study regions to determine if reclassification is necessary. This particular report under consideration, CGS SP 210, updates information previously presented in a classification report on Portland cement concrete-grade (PCC) aggregate in the Bakersfield Production-Consumption Region completed in 1988 (Special Report 147). The SMGB is considering accepting the updated report for the classification of mineral resources land in this area.

- Mr. John Clinkenbeard with CGS's Mineral Resources Program provided an introduction and synopsis of CGS's Mineral Land Classification program.
- Mr. Lawrence Busch with CGS's Mineral Resources Program provided a synopsis of Special Report 210.
- Chairman Garner noted that the process of designation has been an area of interest of the SMGB, and there is a need to increase the meaning of designation and making sure designated mineral lands are incorporated into CEQA documents, General Plans and real estate disclosures. A more systematic approach to the designation process, and resulting actions, is something that needs to be further discussed as part of the SMGB's overall discussions of its Strategic Plan. Chairman Garner recommended that the Executive Officer consider compiling or profiling five or 10 cases where the system failed and succeeded, situations where rezoning was considered due to the presence of mineral resources, or where a lead agency decided not to pursue designation, and cases where the process did not work and why. Also, the Executive Officer could determine what component or components are failing, and what could be done to correct the situation - outreach, changes in the process, etc.
- Member Lund in her experience participating on City Counsels stated that issues such as noise, traffic, etc., are significant local issues, and people simply do not want mining operations in their backyards.
- Member Baca stated that if the SMGB is going to provide advice to the legislator, then the SMGB should proceed accordingly, and the situation that Member Lund raised takes place throughout the state everyday.
- Member Bly-Chester commented on the ineffectiveness of overall CEQA review process and the ability to comment in a timely manner when mineral lands are impacted.



Board Member Baca moved to accept the report. Board Member Lund seconded and the motion carried with a unanimous voice vote.

2. **Public Hearing:** Issuance of an Order to Comply to Pacific Rock Mine (CA Mine ID #91-56-0011), Pacific Rock (Operator), Carrie Cox (Agent), County of Ventura, for Failure to Provide an Amended Reclamation Plan and Adjusted Financial Assurance Cost Estimate Pursuant to the Surface Mining and Reclamation Act (Public Resources Code Section 2710 et seq.).

Executive Officer Testa stated that this agenda item was to be deferred.

3. Adoption of the State Mining and Geology Board's Strategic Plan.  
Executive Officer Testa stated that the SMGB's Strategic Plan was initially adopted in March 1997, and updated/revised in November 2000, and most recently in March 2007. Following discussion at its June 2009 regular business meeting, the plan has been revised and being considered for adoption by the SMGB.

- Discussion was held among the SMGB Members and topics to be further discussed in the future were identified.
- Chairman Garner stated that the plan should include a memorial to Past Member Seena Hoose.
- Vice-Chair Bly-Chester requested that the organization chart be revised.
- Member Baca noted that there are portions of SMARA that do not align directly with local permitting process, and asked for an objective that addresses this.
- Member Tepel noted that the SMGB should be looking at SMARA as a whole, as well as the professional make-up of the SMGB itself.
- Marni Weber stated that Director Luther has empowered both OMR and OGER to take a thorough look at SMARA, as a whole, during the coming year, and to craft a comprehensive legislative proposal to rectify some of the issues in SMARA, and that the SMGB may provide their input either to OGER or to OMR. Chairman Garner stated that a review of SMARA be sent to the Policy and Legislation Committee, and for the Executive Officer to schedule such committee meeting in November.
- Member Licari stated that he supported the continued focus on classification and designation of resources.
- Member Baca noted that the Board should take the lead on the legislative clean-up, with a focus on how to put 'teeth' into the designation process, and reiterated his concern about the inconsistencies between SMARA and local planning policy.
- Member Lane expressed the need to address issues pertaining to non-responsive mine owners, and requested that local lead agencies be invited to address the SMGB on a routine basis on their respective SMARA programs, as well as receive their input on the update of SMARA.
- Vice-Chair Bly-Chester mentioned Member Hoose's request for additional guidelines for the SMGB when considering administrative penalties. Executive Officer Testa noted that Ms. Hoose's requests have been incorporated into the Strategic Plan, but follow-up discussions are still warranted. While reviewing SMARA, further amendment to the SMGB's vested rights procedures should be considered. Executive Officer Testa noted that after the upcoming vested rights determinations, that the SMGB could revisit its regulations on vested rights. Vice-Chair Bly-Chester stated that she supported public access to mineral and fault maps and would like some additional discussion regarding funding of those programs, and re-iterated her request to develop consistent enforcement policies, and a defined, specific,





process for notifying the public of meetings, etc. Recognition of the importance of the California Geological Survey's Geology Library was made.

- Member Tepel stated that a more comprehensive listing of agencies that with which we are affiliated be compiled.
- Chairman Garner requested an organization chart of where these other agencies exist in state government and whether we have, or can have, a working relationship with those agencies, and noted that these additional ideas are for the next strategic plan, and not to hold up the current iteration of the plan based on these additional comments.
- Vice-Chair Bly-Chester mentioned considering budget deadlines in making these recommendations.
- Member Wyatt questioned where the responsibilities for tsunami tracking is held, and consideration of guidelines for additional reclamation costs that aren't generally calculated into reclamation plans (holding tanks, etc).
- Member Baca noted that there should be focus on reviewing or updating guidelines for financial assurances.
- Member Licari requested that the Policy and Legislation Committee provide some direction to the SMGB on submittal of documents and the timing of such.
- Member Lund stated that she appreciated the plan itself, and the public outreach it espouses; however, potential conflicts exists between Goal 1 and Goal 6, and that the SMGB should keep that in mind when moving forward.
- Vice-Chair Bly-Chester inquired about deadlines for Budget Change Proposals (BCP), and, Ms. Weber stated that the SMGB should provide BCPs around July of each year, and for Spring events, begin working with the Budget Office around February of each year.
- Chairman Garner re-iterated wanting to focus on the review of the CEQA process and how it affects SMARA, and noted that development of a database of successfully reclaimed mines would be helpful. A budget projection over the next few years, as well as a regular check-in on the status of the strategic plan objectives on a regular basis should be made.

Board Member Baca moved to adopt the Strategic Plan with inclusion of a memorial to Past Member Hoose. Board Member Lane seconded and the motion carried with a unanimous voice vote.

#### **XI. Special Reports and Department Presentations [Possible Action]**

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

4. Inspection reports pursuant to PRC Section 2772(b) for the following surface mining operations may be presented for SMGB acceptance consideration as being in accordance with the SMGB's requirements:
  - Knife River Hallwood Plant (CA Mine ID #91-58-0002), Yuba County.
  - Wheatland Clay Mine (CA Mine ID #91-58-0007), Yuba County.
  - Parks Bar Quarry (CA Mine ID #91-58-0013), Yuba County.
  - Blue Point Clark Rock Quarry (CA Mine ID #91-58-0015), Yuba County.
  - Blue Point Mine (CA Mine ID #91-58-0021), Yuba County.
  - SRI Stringer Pit #1 (CA Mine ID #91-58-0022), Yuba County.
  - SRI Stringer Pit #2 (CA Mine ID #91-58-0023), Yuba County.
  - Simpson Lane (CA Mine ID #91-58-0025), Yuba County.



Executive Officer Testa stated that the SMGB serves as the lead agency under SMARA for two counties, nine cities, and the Bay Conservation and Development Commission (BCDC). Eight SMARA mine inspection reports are being presented today for acceptance consideration by the SMGB, and acknowledgement that the reports have been prepared in accordance with the regulatory requirements of SMARA and the SMGB's guidelines.

- Mr. Will Arcand, Senior Engineering Geologist with the SMGB, presented a summary of each inspection report.

Board Member Lund moved to accept the inspection reports. Board Member Lane seconded and the motion carried with a unanimous voice vote.

## **XII. SMGB Committee Reports [Information and Possible Action]**

- Geohazards Committee (Chairperson Bly-Chester)
  - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
    - No report provided.
- Surface Mining and Standards Committee (Chairperson Lund)
  - No report provided.
- Minerals and Geologic Resources Committee (Chairperson Tepel)
  - No report provided.
- Policy and Legislation Committee (Chairperson Baca)
  - No report provided. SMGB Chairman Garner requested that a committee meeting be scheduled for November to discuss SMARA and the SMGB's policy for submittal of documents and information to the SMGB for agendized items.

## **XIII. Continuing Business [Information]**

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

No continued business items were discussed.

## **XIV. New Business [Information]**

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

No new business discussed.

## **XV. Executive Session (Closed to the Public) [Possible Action]**

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). An un-named case where there is potentially significant exposure to litigation against the Board.



**Re-open Regular Business Session, Announce Results of Executive Session**

SMGB's Legal Counsel, Mr. Richard Thalhammer, Deputy Attorney General, announced that the SMGB met in closed session to discuss pending litigation but took no actions.

**XVI. Announcements of Future Meetings**

November 12, 2009, was announced as the next meeting, and the City of Placerville as the location.

**XVII. Adjournment**

The meeting was adjourned at 12:45 P.M.

**APPROVED**

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Erin Garner, Chairman

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Stephen M. Testa, Executive Officer

